

REMARKS

This is in response to the non-final Official Action currently outstanding with regard to the present application.

Claims 1-29 were pending in this application at the time of the issuance of the currently outstanding Official Action. By the foregoing Amendment, Claims 1-29 have been amended. No claims have been either canceled or withdrawn. Accordingly, upon the entry of the foregoing amendment, Claims 1-29 as hereinabove amended will constitute the Claims under active prosecution in this application.

The Claims as they will stand upon the entry of the foregoing amendment are reproduced above showing the changes made and including appropriate status identifiers as required by the Rules.

More particularly, in the currently outstanding Official Action the Examiner has:

1. Acknowledged Applicants' claim for foreign priority under 35 USC §119 (a)-(d) or (f), and confirmed the receipt of the required copies of the priority documents by the United States Patent and Trademark Office;
2. Accepted the drawings as originally filed as part of the above-identified application on 17 January 2002;
3. Rejected Claims 1-29 under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;
4. Rejected Claims 1-3, 5, 10, 15, 25 and 27-29 under 35 USC §102(b) as being anticipated by Fujisawa (JP 05-047155);

5. Indicated that Claims 4, 6-9, 11-14, and 16-19 would be allowable if rewritten to overcome the rejection(s) under 35 USC §112, second paragraph, set forth in the Office Action and to include all of the limitations of their respective base claims and any intervening claims;
6. Indicated that Claims 20-26 are allowed (presumably provided that Applicant satisfactorily removes the 35 USC 112 problems cited by the Examiner with regard to those claims).

No further comment regarding items 1 and 2 above is deemed to be required in these Remarks.

With respect to item 3 above, all of the claims of this application have been amended in response to the Examiner's rejection under 35 USC 112 that alleges that as previously phrased those claims are unpatentable because they are indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Specifically, the Examiner suggests that the claims appear to be a direct translation from a foreign application that is replete with grammatical errors and idiomatic English language errors. Applicant's undersigned representative now has reviewed the claims of this application in detail, and has revised the phraseology of the claims of this application in a manner that is believed to be technically correct and without the grammatical and idiomatic English language usage problems referred to by the Examiner. Accordingly, Applicant respectfully submits that the foregoing Amendment overcomes the bases for the Examiner's outstanding rejection under 35 USC 112. A decision so holding in response to this communication, therefore, is respectfully requested.

With respect to item 4 above, the Examiner has asserted that Claims 1-3, 5, 10, 15, 25 and 27-29 are anticipated under 35 USC §102(b) by Fujisawa (JP 05-047155). By the foregoing Amendment, Applicant has now specified in Claims 1, 5, 10, 15, 25, 27 and 28 that the cartridges of the present invention include a plurality of holes, which have different radial positions with respect to a disk center respectively, the plurality of holes being indicative of a relationship between a first recording medium diameter contained in a first cartridge and a predetermined diameter of a second recording medium contained in a second cartridge different from the first diameter of the first recording medium contained in the first cartridge. The importance of this added limitation is as follows.

The present invention provides a solution to a problem associated with a disk recording and reproducing apparatus that may handle disk cartridges containing disk recording mediums having differing diameters. Specifically, in such devices damage to an optical pickup and a magnetic head occurs when the optical pickup runs out of control in the case wherein a disk with a smaller diameter is contained within a cartridge loaded into the device. The problem is solved in the present invention by the feature added to the claims mentioned above (see also Fig. 1 of the present specification).

Thus, it will be understood that the Fujisawa reference currently relied upon by the Examiner discloses a structure wherein detection holes (7) are provided at the same radial distance from a disk center in a cartridge for a disk with a standard diameter (see Figs. 1 and 2 of Fujisawa). Further, in the Fujisawa reference, other detection holes are not provided in the cartridge corresponding to a disk with a smaller diameter (that is a disk whose diameter is smaller than that of a standard disk) assuming as does the Fujisawa reference that the size of the first and second cartridges are the same. Hence, the cited Fujisawa reference discloses that the holes (7) of each cartridge **have the same radial position with respect to the disk center**. Accordingly, it will be appreciated that the Fujisawa reference relied upon by the Examiner considers only the case in which two types of disks, i.e., large (in the sense of corresponding to the maximum travel of the reading/recording head) and small, are contained in **the same size (i.e., identical) cartridges**.

As currently amended, on the other hand, the claims of this application now make it clear that the present invention is characterized in that **disk cartridges with a plurality of holes having different radial positions with respect to a disk center respectively are provided (see Fig. 1)**. Accordingly, it will be understood that in the present invention as now claimed the cases in which (a) the size of the respective disks when the largest does not correspond to the maximum travel of the recording/reading head, and (b) the sizes of the cartridges themselves changes both are taken into account contrary to the teachings of the cited and relied upon Fujisawa reference.

Accordingly, since all of the elements of the claims as presently constituted cannot be said to be fairly disclosed or inferred from the cited and relied upon Fujisawa, Applicant respectfully submits that the Examiner's anticipation rejection of Claims 1-3, 5, 10, 15, 25 and 28-29 must fail. A decision so holding and allowing Claims 1-3, 5, 10, 15, 25 and 28-29 as well as the claims depending either directly or indirectly upon any of them in response to this communication, therefore, is respectfully requested.

Similarly, Applicant respectfully submits that the Examiner's rejection of Claim 27 cannot stand. Claim 27 is characterized by a configuration of a chassis (81) including: a restricting member (82) which presses a side wall of the cartridge (30) (i.e., engages and exerts pressure against the cartridge (30)) and contacts with the pickup (45) (i.e., abuts against (i.e., is disposed in contact with) the pickup (45)) when a disk cartridge is loaded into the recording and reproducing apparatus so as to restrict the pickup (45) from moving in an outward radial direction more than a predetermined radius. (See, Figs. 1 and 13b).

The cited and relied upon Fujisawa reference, on the other hand, totally fails to disclose the presently claimed construction because a chassis (10) does not press against the side wall of cartridge (1) in the cited Fujisawa reference as required by Claim 27 of this application. Accordingly, a decision allowing Claim 27 as hereinabove amended in response to this communication is respectfully requested.

With regard to item 5, it is respectfully noted that the Examiner has suggested that the subject matter of Claims 6-9, 11-14 and 16-19 is patentable. Applicants (without prejudice to their right to do so later in these proceedings should further prosecution of this application so warrant) have not rewritten those claims in independent form including all of the limitations of their respective base claims and any intervening claims at the present time. This is because Applicant believes for the reasons stated hereinabove that the parent claims of each of the listed Claims 6-9, 11-14 and 16-19 are allowable as they will stand upon the entry of the foregoing amendment. Accordingly, a decision allowing Claims 6-9, 11-14 and 16-19 in response to this communication is respectfully requested.

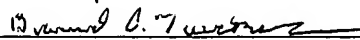
Finally, Applicant respectfully notes that the Examiner has allowed Claims 20-26 based upon limitations contained in those claims related to the length of the holes in the cartridges. Claim 4 has now been rewritten in independent form and in addition contains similar limitations to those the Examiner has stated justified his allowance of Claims 20-26. Accordingly, Applicant respectfully submits that amended Claim 4 is in condition for allowance. Consequently, reconsideration of Claim 4 in its amended form and a decision allowing Claim 4 (as amended) response to this communication are respectfully requested.

In view of the foregoing Amendment and Remarks, Applicant respectfully submits that all of the claims of this application as they will stand upon the entry of the foregoing Amendment are in condition for allowance. Accordingly, reconsideration of this application in light of this communication, and the allowance of Claims 1-29 in response thereto are respectfully requested.

Applicant also believes that additional fees beyond those submitted herewith are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. 04-1105, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

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SIGNATURE OF PRACTITIONER

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